

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CATALINA LOPEZ,

Plaintiff,

v.

No. 14-cv-0430 MCA/SMV

**UNITED STATES OF AMERICA
and MICHAEL T. JOHNSON,**

Defendants.¹

ORDER SETTING SETTLEMENT CONFERENCE

THIS MATTER is before the Court at the request of the parties. A settlement conference was originally set in this case for June 9, 2015, but it was vacated at Defendant's request. Now, however, both sides are in agreement that a settlement conference may be fruitful. Accordingly, a mandatory Settlement Conference will be conducted in accordance with Rule 16(a)(5) of the Federal Rules of Civil Procedure. The conference will be held on **September 28, 2016, at 9:00 a.m.** in the **Doña Ana Courtroom**, on the **third floor** of the **United States Courthouse at 100 North Church Street in Las Cruces, New Mexico.**

The parties or a designated representative, other than counsel of record, with full authority to resolve the case, must attend in person. Counsel who will try the case must also attend in person. Counsel are encouraged to read "Keys to a Successful Mediation" by Judge James A. Hall prior to the settlement conference.² Those attending the settlement conference

¹ Defendant Johnson was dismissed as a party on October 21, 2014. [Doc. 27].

² For ease of reference, the Court has posted the article on its website, and the article may be accessed at <http://www.nmcourt.fed.us/web/DCDOCS/Judges/Files/HallMediationArticle.pdf>

must treat as confidential the information discussed, positions taken, and offers made by other participants in preparation for and during the conference.³ *See generally Hand v. Walnut Valley Sailing Club*, No. 11-3228, 2012 WL 1111137 (10th Cir. Apr. 2, 2012) (unpublished) (affirming dismissal of case as sanction for violating confidentiality of settlement conference). Counsel shall advise their clients regarding appropriate attire for appearance in federal court.

No later than **5:00 p.m. on September 23, 2016**, each party must provide the Court, in confidence, an updated concise position statement (typically no more than ten pages) reflecting all offers and demands made by each side, an analysis of the strengths and weaknesses of each side's case, and the names of the individuals who will be attending the conference and in what capacity. Plaintiff's counsel must specifically address whether there are any relevant liens, and in particular whether there are any Medicare or Medicaid liens or any subrogation issues that may affect a settlement. Plaintiff's counsel should also attach the parties' proposed Pretrial Order to his letter. Position statements must be submitted to the Court by e-mail at VidmarChambers@nmcourt.fed.us.⁴

The Settlement Conference will not be vacated or rescheduled except upon motion and for good cause shown. Any motion to vacate or reschedule the Settlement Conference shall provide the Court with sufficient notice to ensure that other matters may be scheduled in the time allotted for the Settlement Conference.

³ This does not prohibit disclosures stipulated to by the parties, necessary in proceedings to determine the existence of a binding settlement agreement, or as otherwise required by law.

⁴ Each e-mail message and its attachments cannot exceed 5 MB. Data exceeding 5 MB should be submitted in individual e-mail messages, each less than 5 MB.

The Court may contact counsel ex parte prior to the Settlement Conference to discuss the Settlement Conference.

IT IS THEREFORE ORDERED as follows:

**Parties' updated confidential position
statements due to the Court:**

September 23, 2016, at 5:00 pm.

Settlement Conference:

September 28, 2016, at 9:00 a.m.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge